IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 938 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PRATAPBHAI ALIAS LALABHAI GANPATBHAI TADVI - Petitioner(s)
Versus
SURESHBHAI BHAIJIBHAI RABARI & 1 - Respondent(s)

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Appearance :
MR AS ASTHAVADI for Petitioner(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.
MR RAJNI H MEHTA for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 11/04/2007

ORAL JUDGMENT

1. **RULE**. Learned advocate Mr. Vyas waives service of rule on behalf of the respondent. At the request of

the learned advocates for the parties, the matter is taken up for final hearing today itself.

2. This petition is directed against the order dated 18th November, 2006 passed below Exh. 20 in Motor Accident Case No. 1948/2003 passed by Motor Accident Claims Tribunal [Auxi.], Vadodara. The application was submitted for withdrawal of Rs.17,500=00 which is lying in Fixed Deposit with the Corporation Bank, Vadodara. The said amount is part of the interim award made under Section 140 of the Motor Vehicles Act, in favour of the petitioner. The petitioner has made an application on the ground that he needs fund to purchase the items for his grocery shop. Along with the application he has also submitted the bills of the items together with quotation bill. He has also produced the certificate issued by Panej Juth Gram Panchyat dated 28th October, 2006 to prove that he is running a grocery shop on Naswadi Rajpipla Highway. The Tribunal has turned down the application on the ground that reasons stated in the application do not inspire confidence and, therefore, within short time, there is no reason to permit the petitioner to withdraw the amount.

3. Mr. Asthavadi learned advocate for the

petitioner has however, submitted that the petitioner has suffered permanent disability and he needs money to purchase items of grocery for his shop so that he can maintain his family.

4. Having perused the contents of the petition as well as the annexures attached thereto, it appears that there is some substance in the say of the petitioner. There is no dispute that he is having shop on the highway. When the petitioner is running a shop, it is but natural that he would need some items of grocery for sale. It is also obvious that after suffering accident, he might not have been able to run the shop as efficiently as he was doing before the accident. In view of the same, some need is there to re-establish his business. At the same time it appears that the petitioner has already been given Rs.7,500=00 out of the award amount of Rs.25,000=00 and the balance amount of Rs.17,500 has been invested in the FDR, since 21st April, 2005. Some interest must have also accrued thereon. In view of the same, this petition is required to be partly allowed. The petitioner is permitted to withdraw Rs.7,500=00 together with interest accrued thereon till this date. The concerned Tribunal, therefore, shall withdraw the amount and disburse the same to the

petitioner on or before 31st May, 2007 and the balance amount of Rs.10,000=00 shall be reinvested in the FDR for a period of three years at the prevailing rate of interest.

5. The petition is, therefore, partly allowed. Rule is made absolute. Direct Service is permitted.

[Akshay H. Mehta, J.]

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